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COMMENTS ON PROPOSED CHANGES IN PROCEDURE IN WEST VIRGINIA.

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Mr. President and Gentlemen of the West Virginia Bar Association:

It has been a very great pleasure to me, I assure you, to visit you and to enjoy your kind hospitality. It is always interesting to those who work in a local bar association to see how other bar associations undertake their problems, and I have found not only pleasure but profit in being here with you during this session.

The particular matter about which I have been asked to say a few words, is the report of the committee which Mr. Arnold and his collaborators have made upon West Virginia procedure. Before taking up the contents of this report, it should be observed that there is something unique about the position of the legal profession, which we probably do not often stop to think about. It is a fact, however, that there is no other profession or business in which the ordinary principles of competition do not operate to produce progress in methods. If we consider the medical profession, for example, it is perfectly obvious that there is a selfish interest on the part of every doctor to improve the methods that he uses in his practice, because different doctors compete against each other in the methods which they employ. The same is true with engineers, the same is true with dentists, and the same is true in practically all lines of business. There is a direct and powerful competition in methods between those who work in all of these other fields, but in the law there is no such competition. All lawyers in the same jurisdiction operate under identically the same rules, and no lawyer can offer any better method of procedure than any other lawyer, because all are bound by the same procedural law,—all do things in exactly the same way. That being true, what difference does it make whether we have good methods or bad methods? We are all on an equality.

I am inclined to think that this is the real reason why it is so difficult to develop a strong interest in the improvement of legal procedure among the members of the legal profession. We are interested in it in a mild and benevolent and rather indifferent way. In principle we think improvement is a good thing, and we vaguely believe it will be brought about at some future time. Mean-

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while there is no hurry. We know perfectly well that our business will not be hurt at all by delay. Such a situation makes it necessary to use methods for stimulating procedural reform quite different from those that are sufficient to bring about improvement in any other line of human endeavor.

Since the principle of competition does not operate, and there is no strong natural tendency forcing us to improve our legal machinery, an artificial means must be found for doing it. The method which is now coming into greatest prominence and is arousing the keenest interest, is the institution known as the judicial council. The establishment of such a council in West Virginia is the first proposal which the committee makes in the report which it has published. Experience has justified the judicial council. It is a means for developing interest in judicial improvement. It gives an official status to the movement for the better administration of justice. It consists of a body of men publicly responsible for directing the efforts of the bar and of the public toward better ways of administering our law.

The particular proposals which the committee suggests I think are very interesting. There are five outstanding features of the act which it has suggested for the creation of a judicial council. Each one may be discussed briefly.

In the first place, its council is small, and therefore is workable. Some judicial councils in the United States are utterly unwieldy and will probably never accomplish anything. Imagine a judicial council consisting of all the circuit and supreme court judges of a state, and expect it to ever get anything done! Some states go farther than that, and to that great body of judges they add almost an equal body of lawyers. Such an organization would have scarcely more power to carry through any improvement than the profession at large. In a judicial council consisting of so great a number of people, none of them will be likely to feel any responsibility, and it will be so large that it can hardly meet. Nine members, which the committee suggests, seem to make a very workable judicial council. It will be small enough so that it can meet readily, can discuss problems effectively, and can get something done.

The second feature that seems to me very promising is the fact that upon this judicial council of nine there is a minority of judges. Some judicial councils consist entirely of judges. I do not think any consists entirely of practicing lawyers. Judges ought to be found on a judicial council, but lawyers ought also to be there and I believe, for several reasons, that the majority ought not to be representatives of the bench. In the first place, the judges do not deal with clients, and they are not brought in

close contact with the social and economic problems and burdens of litigation. They do not understand what a grievous hardship litigation has become for those members of the public who are involved in it. The lawyer who deals with his clients does understand that, and I think he is in a better position than the judge who sits in comparative isolation on the bench, to realize what the public needs and demands. In the second place, the judges do not use the rules of procedure. They merely administer them. They have no personal interest in the objects for which they are employed. In a sense, the judge is like the umpire in a game, who does not play, but merely passes upon the points that the players make. In the third place, the judges, of course, are naturally a more conservative class than the practicing bar. Therefore, it seems to me the committee has suggested a very wise division of interests upon this judicial council, by proposing a minority of judges.

The committee suggests, as the third feature, that the judicial council ought to have the power to obtain judicial statistics. Upon that there could be no question. It is not a debatable matter. The one thing that has done most to obstruct and prevent improvement in American judicial procedure has been our total lack of information as to what is going on. We publish no data. Everybody makes his own guess as to how things work, and as to why they do not work better. But no one can prove anything. Last winter in Detroit the lawyers got very much exercised over the situation in the lower courts, and a very strong effort was made to collect information as to what was going on there, in order to use it at Lansing, our state capital, in support of a bill to reorganize those courts. But it was discovered that there was no way of finding out anything about it, and after several weeks of effort the attempt was simply given up, with the vague hope that some day, perhaps, through a judicial council or in some other way, it would be possible to develop a method of obtaining and keeping judicial statistics, so that we would know what was going on and could find out what was wrong and how to improve it.

I think one of the most effective measures which Great Britain has taken, and which accounts to a considerable degree for the success of English procedure, has been its system of statistics. They annually publish both civil and criminal statistics of the kingdom, which can be obtained for about a shilling, I believe. Anybody can tell what the English and Scottish Courts are doing. In England there are about twenty high court judges handling superior litigation. Mr. Newlin has told you that there are fifty superior court judges in Los Angeles County alone. We have

increased the number of circuit judges in Detroit to eighteen, besides a dozen criminal court judges. Why is it that the twenty English judges can handle the work of all England and Wales when it takes fifty judges to handle the work of Los Angeles? We know what is going on in England, because England publishes statistics. We do not know what is going on in Los Angeles, or in Detroit. It might be that if we knew more about what is going on we might devise methods of getting along with less judges. But until we get information we can do nothing. So that the necessity of obtaining statistics is certainly a fundamental one. There is no better way of going about it than through the agency of a judicial council.

There is one thing suggested by the committee that I am skeptical about. It has proposed that the judicial council be given power to call witnesses, administer oaths and demand the production of books and documents. This seems unnecessary. The delegation of inquisitorial powers is not favored in this country, and I do not believe that those powers are needed for the adequate functioning of a judicial council.

The fourth point that the committee makes in respect to its proposed judicial council is that the law school of the University of West Virginia should be utilized for the purposes of legal research. That seems to be a very feasible and practical suggestion. The problems involved in judicial administration, are, as we all know, very difficult and intricate. They involve an enormous number of factors, and a great deal of study must be given to any measure which will be likely to be successful. Ours is a critical profession. We want to know before we accept, and I think the only way to secure the approval of the bar in regard to any reform which is suggested, is to present to its members full information, as a result of a complete study, in order to convince them that the proposals are sound. To do that requires an enormous amount of work. I think lawyers do not realize the extent to which the modern age has become an age of research. There is hardly an industrial organization in the United States, of any considerable size, which does not maintain a complete, separate, independent research organization. I had occasion recently to look up the matter of industrial research, and while I have not the figures with me, it is my recollection that I found six or seven hundred industrial companies listed as having fully developed research laboratories and research staffs. The DuPont Company three years ago was employing twelve hundred experts in research work alone. The Western Electric Company, the manufacturing subsidiary of the American Telephone & Telegraph Company, employs nearly a thousand experts who do nothing but

research work. Banks, financial institutions, trust companies, all maintain research staffs. Even cities are developing research staffs. We have a research bureau in Detroit supported by the municipal funds, studying problems of municipal administration. School boards all over the country are maintaining research organizations to study the problems of education. Few of us realize, I suppose, what an enormous research institution the City of Washington has become. There are thousands of research experts on the government payrolls constantly working there, engaged in geology, in animal industry, plant industry, various phases of agriculture, commerce, education, and many other fields. Thousands of publications are issued giving the results of these expert investigations, all for the benefit of those who wish to make use of the information so derived. The one line of research in which there is nothing going on in Washington, or indeed anywhere else, to any considerable degree, is research in the field of the law. Lawyers have absolutely failed to understand that they are living in an age of research, and unless some method can be devised for studying the problems of the law, as all other groups study the problems in which they are engaged, the legal profession will simply become obsolete.

Let me give you an illustration as to how useful it is for lawyers to have a research agency at their command. Two years ago the Michigan legislature created a commission of five lawyers called the Procedure Commission, to make a study of Michigan procedure, and to recommend to the Supreme Court revised rules of practice and in particular an improved system of appellate review. In our state, the supreme court has, by the Constitution, rule-making power, which has never been very fully exercised. This commission was created for the purpose of gathering information upon which definite proposals could be drawn, and presenting them to the supreme court for the purpose of getting a better system of procedure. Five lawyers constituted the commission. Two were lawyers in Detroit, one was a lawyer in our state capital, Lansing, another was a lawyer in our second largest city, Grand Rapids, all of them very busy men. Not one of them could possibly have taken time from his business to devote to the thorough study which was necessary to be made if anything substantial was to be accomplished. I was the fifth lawyer and was chosen because I was a member of the faculty of a law school equipped for legal research. The school was in a position to release me entirely from teaching, and I gave all my time for a year to the study of the problems connected with our state practice.

The method pursued was this. I collected the data, studied the

procedures in all the other states of the Union so far as they threw any light on our problems, digested the material, drafted the rules, and then sent copies of all the drafts and the material on which they were based, to the other members of the commission, giving them time to go over them. Then the commission would meet and spend a day or two thoroughly going over the material, reaching such conclusions as it could and developing other problems and questions. These in turn would be investigated, submitted and discussed in the same way. After a year of that sort of work we finally produced a revised set of rules which we presented to the supreme court. It could not have been done without some agency for making the study, and the law school supplied the agency. I think any state is fortunate that has a state law school able and willing to offer its facilities to the bar for making such a study, and I have no doubt that you in West Virginia will derive the same aid, if you are willing to take it, from the work of men at the West Virginia law school, that the Michigan bar was able to derive from the facilities which the Michigan law school offered.

Judge Cardozo, of the New York Court of Appeals, in urging a New York judicial council several years ago, proposed a membership of five upon that council, two of whom should be members of law school faculties in the State of New York, and he gave as his reason, that such work required a great deal of study and time, and no one who was actively practicing at the bar or at work upon the bench was able to carry such a burden. It was only through the law schools that he believed the work should be done.

The fifth proposal in the committee's suggested act, is that the judicial council should have the power to recommend rules but not finally to legislate. In other words, it does not propose that the council should have absolute rule-making power, but that it should make its proposals to the supreme court of appeals, and that that court should accept or reject those proposals as it might be advised.

It seems to me that this is a very wise provision, and very much better than giving final rule-making power to the judicial council. In the first place, with such an arrangement, the judicial council would have to rely upon public opinion for its success. I believe that public opinion is the only sound basis for any governmental activity in a free country like ours, and the development of a sound and enlightened public opinion upon the administration of justice would be of incalculable value. If the judicial council were put in a position where it would be obliged

to appeal to public opinion it would perform a most useful service.

The judicial council under such a scheme would be an agency for educating the public and the profession in regard to a better administration of justice. It would show the public what was possible. It could also disabuse the popular mind in regard to those things which are impossible, because there is no use in encouraging the public to hope for something it cannot have. On the other hand, it could educate the bar as to those things which are practicable and which ought to be developed and devoted to the public service.

A judicial council of this character would operate to assist both the court and the legislature. Procedure is partly a matter which can be regulated by court rules, and it is partly a matter which requires legislation. Questions of court organization, jurisdiction and the personnel of courts are matters which the legislature must deal with. Questions of mere mechanics are matters which the court can deal with, and deal with better than the legislature. But these two things dovetail into each other, and the judicial council, if it were not a final rule-making body, but were an agency to develop and present new ideas to the court, on one hand, and to the legislature on the other, could study procedure as a single problem, and ask such action from each as might be needed.

Furthermore, if the judicial council were required to convince the court or the legislature of the soundness of its proposals, it would be likely to work out its problems more carefully than if it were given arbitrary power to put those proposals in force. The value of public discussion has been very strongly brought out in our experiment in Michigan. The Procedure Commission circulated many hundred copies of its report throughout the state, putting them into the hands of local bar associations everywhere, and into the hands of all such lawyers as were sufficiently interested to give the matter some study. As a result the commission received scores of suggestions from lawyers, many of which were very valuable, and it finally proposed about fifty amendments to the rules set forth in its original report on the basis of the suggestions that were received from members of the bar throughout the state. An amended report, including all of those amendments, has been issued, and the latter part of this week, at the annual meeting of the Michigan Bar Association, there will be a public hearing upon this report before the members of the supreme court, who will attend one of the sessions for that purpose. We have been discussing this revision for a year and a half. Every local bar association in Michigan has been

devoting meetings to the discussion of these rules. Some of our bar associations have met every month throughout the winter and have debated these rules group by group, going over the whole report. The result has been the development of a very great interest on the part of the bar. I have no doubt that if the commission had had the power arbitrarily to put those rules in force, there would have been a much stronger opposition on the part of the bar. But the bar has been given a chance to look them over and study them at its leisure, to debate them and to suggest changes, so that the psychology of the situation has developed along the right lines. The bar has been very friendly. There has been no widespread opposition. It is my impression, although no final action has been taken, that the supreme court will eventually adopt a large part of the proposals which have been made. If so it will be due to the fact that this commission had no authority except the moral power to persuade the bar and the court that its proposals were sound.

We have done one other thing in connection with our Michigan judicial council which the committee does not propose. I believe it is of value. We have put two laymen on our council. The members consist of three judges, five lawyers and two laymen. The five lawyers are made up of three chosen at large from the bar, the attorney general, and a member of the law school faculty at Ann Arbor. The presence of the two laymen, I think, serves two valuable purposes. In the first place, it will bring out the lay point of view as against the professional point of view; that is to say, it will emphasize the importance of results as against the importance of mere methods. The profession is so much involved in its procedure that I think it sometimes looks upon procedure as the main thing, and the results to be derived from it as incidental. The professional attitude toward the public is this: we will give you the best we can under the rules, but the rules are fixed. Now, that is not the lay attitude. The layman determines what results are wanted, and then insists that methods and machinery be provided to produce those results.

When a new model of a motor car is brought out in Michigan, the men who develop the model do not first find out what machinery is available in the shop in order to ascertain what sort of product that machinery can turn out. They are only interested to determine what kind of a car the public wants. Their first question is: What shall we offer the public? And, having determined what kind of a car they are going to offer, they simply inform the shop that such a car is going to be produced. And, if it were necessary, they would scrap and replace every bit of machinery in the shop in order to produce it.

That is not the legal attitude. The conventional legal mind starts with the machinery, and will give the public whatever product that machinery will produce, and no other, If the public does not like the product, it is too bad, but it cannot be helped. I think, through the presence of laymen on the judicial council, we should be constantly reminded that if the machinery is not adequate, it ought to be scrapped and something better provided.

Secondly, we would thereby gain some advantage in developing public confidence in the administration of justice. I do not think the legal establishment enjoys too much public confidence. In every legislative assembly in my state, the moment it appears that the lawyers want anything, the laymen become suspicious. There is an intangible antagonism between the bar and the public, probably due to the fact that the public does not get from the profession what it thinks it ought to get. I think that the presence of laymen on a judicial council would help allay that suspicion. It can be allayed only by a closer co-operation between the public and the bar.

In England they have done the same thing in another way. They have an investigation of the courts every few years, but they do not appoint lawyers to investigate. They appoint royal commissions consisting largely of laymen, and the laymen proceed to inquire as to how the courts are operating. They call the judges to the witness stand and interrogate them as to what they are doing and why, seeking to discover weaknesses in the court procedure from the lay point of view, and to develop means by which those weaknesses can be rectified. I think a closer relation between the bar and the laymen in this country would prevent friction and produce valuable affirmative results.

It is possible the idea of adding laymen might appeal to the profession in West Virginia. The Michigan council is the first, I think, to have laymen among its members.

Our legislature was very friendly to the judicial council idea. I might suggest that in the course of our discussions with the members of the judiciary committees in the house and senate it appeared that one of the reasons why the legislature was particularly interested in authorizing a judicial council was the fact that the law school was in a position to offer the facilities of its legal research institute for the study of the problems which the legislature understood was absolutely necessary if anything constructive and substantial was to be accomplished.

I am inclined to think that the committee's suggestion of co-operation with the West Virginia law school, will equally appeal to the West Virginia legislature. The law school is a state in-

stitution. If there are facilities there that the state can use, why should not the state have the benefit of them?

So much for the judicial council. I think it is fundamental,—far more important than any form of procedure itself, because it will constitute an agency which, year by year, will collect data and information, and will establish a foundation upon which continuous development can gradually take place as it is needed.

Taking up some of the other particular proposals contained in the report, I think very little can be said in opposition to them. They are very conservative. I notice the report makes this suggestion: That one of the reasons for advocating the motion for judgment procedure is that it is a familiar procedure, and therefore will be likely to arouse less antagonism on the part of those naturally opposed to change.

I think that the motion for judgment method is intrinsically sound. But I am afraid that the other reason has less to commend it. I do not believe it is necessary to placate a bar. We have just as conservative a bar in Michigan as you have in West Virginia. Nevertheless, the experience of the Michigan procedure commission showed that those provisions which, although the most radical were the most useful, and were the ones which the bar finally approved with the greatest unanimity.

For example, we completely reorganized our appellate procedure. We discarded everything we had, and there is no one single element in the proposed appellate procedure which was retained in its original form. We wiped the slate clean in our proposed rules. You would imagine that a conservative bar would particularly attack that feature of the report. As a matter of fact, they did not do anything of the kind. I have a printed report of a committee appointed by the Grand Rapids bar association, which made a careful and detailed study of these rules, after participating in a series of meetings held by that bar association during the course of the winter, at which the proposals were discussed. Here is the final conclusion of this committee. Under the head of "Appellate Procedure",—the report reads: "The changes suggested in appellate procedure (except for some matters of detail hereinafter mentioned) met with the hearty approval and strong endorsement of every member of the association present at the meetings when they were discussed. In this respect differing from other proposals, our association seems to be a unit in its views. Your committee is likewise unanimous in this regard."

I do not think it is necessary to pussyfoot with lawyers. What you ought to do is to put all your cards on the table and let everybody see them. If you do that, the conservatism of the bar

will mean only that it will show sound judgment, and the fact that the proposals are radical and far-reaching, if you can convince the bar that they will be effective, will be no permanent deterrent. Very often a big thing can be put over when a little thing will fail. I think Mr. Arnold and his collaborators are too modest.

The committee say that what they want to do is to simplify pleading by making it less important. That is good policy. If you are going to get away from technicalities in pleading, minimize the importance of pleading. Pleading is now altogether too important, and the suggestions made seem to me sound and reasonably simple. Stop trying to raise technical issues, give notice to each party as to what he is expected to meet, and then make the test of a variance, not a technical departure from the allegations, but substantial prejudice to the other side. Let him show that he has been actually prejudiced, or the variance will be deemed immaterial. That is the proposal the committee makes.

The report suggests unlimited joinder of causes of action, defenses and counterclaims. In that I think it is perfectly sound. I do not think anybody can suggest any good reason why all causes of action affecting the same parties should not be joined in the same declaration, or why all defenses should not be joined in the same plea, or why all counterclaims should not be set up at the same time. Why use two sheets of paper when you can put the whole thing on one? Why double the intricacy of your mechanics? The fact that you put two causes of action together in the same declaration does not mean that you have got to try them together. And the fact that a counterclaim comes into the same case, does not mean that it has got to be tried in the same action. There is no reason why everything should not be put together in the same pleadings, all issues developed simultaneously, so that the whole case, with all the parties concerned, should be presented at one and the same time, and then be tried at once, or divided into parts for separate trial, as convenience might dictate. Every jurisdiction, beginning with the English common law centuries ago, which has ever tried to develop arbitrary tests for joinder has gotten into trouble. The Code substituted a perfectly arbitrary test for the common law. In Wisconsin, which is distinguished in most respects for the practicability of its procedure, they are quite at sea over the question of the use of counterclaims and the joinder of causes of action. There is constant litigation going on in Wisconsin on the question of what you can join and what you cannot join, and what you can use in the way of counterclaims. If there is one

thing damaging to the profession, it is litigation over the rules of procedure. It gets nowhere, takes time, disgusts clients, and fills up court dockets. If you can obliterate all rules for joinder of causes of action, defenses and counterclaims, and let anything come in subject to separation for trial by order of the court where it is necessary, you will get away from an enormous amount of difficulty and risk.

Now, the committee proposes summary judgments for the plaintiffs upon claims, and summary judgments for the defendant upon certain simple defenses, and in each case the summary judgment should be rendered upon affidavits. The whole point to the proposal is this: If there is no issue of fact to be tried, why start a trial? The common law never had a method for determining whether there was anything to be tried, but it always started out to try it. We have tried too many non-existent questions, and the proposal of the committee for summary judgments upon affidavits, is merely a method for finding out before we start the trial, that there is nothing to try, with a judgment rendered accordingly.

I mentioned a moment ago that twenty high court judges in England handle all the business of England and Wales. The cases in that court are comparable to those we handle in our circuit courts. How can they do it? One reason is the summary judgment. About four out of every five judgments rendered in the high court in England are summary judgments. Only about one out of five is rendered after a trial of issues. In most of our states all those judgments would be rendered only after trial of issues. The trial, in four-fifths of the cases, merely develops the fact that there never was anything there which ought to have been brought on for trial.

The last proposal the committee has is the preparation of suitable forms. England, when she adopted her Judicature Act in 1873, did exactly that thing. A large number of official forms were prepared, and were suggested to the profession by the Court as satisfactory and sufficient wherever applicable, and they have immensely simplified pleadings in England.

We tried the same thing in Michigan about fourteen years ago. A committee from the State Bar Association, seeking to contribute something to the improvement of Michigan practice in addition to suggesting amendments of court rules, prepared fifty simple pleading forms, and handed them to the supreme court with the suggestion that they be adopted. Much to our surprise the court really did so, and provided by rule that the forms should be deemed satisfactory and sufficient in all cases where they were applicable. The attorneys know perfectly well

that if they follow those forms, they will be all right. One of the judges of the supreme court told me recently that, although those simplified forms were never obligatory, and the lawyers were always permitted to use the common-law forms if they preferred, nevertheless the simple forms had in fact driven the common-law forms out of use, and the supreme court seldom got a record in which the simple forms suggested in the rules were not employed. New Jersey did the same thing. They abolished the common law system at a single stroke, and provided simple official forms. It is my understanding that pleading in New Jersey runs along without any difficulties. In Connecticut they use official forms very fully. The use of forms is a practical way of helping the lawyer to avoid mistakes.

One might be inclined to ask how bad procedure really is. Is it as bad as it is painted? Well, it is probably a great deal worse than it is painted. Justice Prosouer, who has had a long experience in New York, has been showing "to what a shocking level of inconsequentiality our litigation has fallen."

Lawyers do not realize how bad our system is. I was much interested in running through the pages of a recent report of the New York State Bar Association, to see a statement by James DeWitt Andrews, who practiced for many years in Chicago, and who was then practicing in New York City, that in the course of twenty-two years of active practice in the State of Illinois, he had never seen a slip or miscarriage of justice because of the law of procedure. I do not doubt that every physician of Queen Elizabeth's age would have been equally positive in saying that he had never seen a curable case where the use of bloodletting was not sufficient to cure the patient. The profession is so familiar with its own procedure that it becomes blind to its defects, and utterly fails to see the things of which the public complains. The truth is that our present judicial machinery is not rendering the service that the public demands.

Our legal procedure is in the position of the old model T Ford. Henry Ford thought he could sell that model T forever, but he finally came to the point where it was clear that he would have to quit. On account of his long delay he was obliged to shut down his factory for several months while he developed a new model, and he suffered enormous losses, but the change was finally effected. The railroads of this country have been very superior in regard to bus transportation. They thought they could laugh at the busses. But they found that times had really changed. So they are buying up the bus lines and operating them.

The truth is that our antiquated judicial procedure is simply driving people to private arbitration. You would be surprised if you should investigate the extent to which private arbitration is

coming into various industries. We all know that the motion picture industry has had no law suits for many years, and there are scores of other industries which get along practically without litigation. Workmen's compensation laws have taken that class of litigation out of the courts. The banking departments of the states and the United States have taken bank receiverships out of the courts. The department of Labor in some of the states is taking claims based on the relation of employer and employee out of the courts. I have no doubt that presently we will see the utility commissions take over the administration of large classes of claims growing out of the operation of public utilities, as well as utility receiverships, and the same may be said of insurance commissions. The tendency is strongly in the direction of eliminating everything possible from our conventional administration of justice. The courts do not function properly. The public is getting tired of it. They will not employ them if they can avoid it, and they are devising every kind of scheme to get away.

If the profession is going to insist that the courts are good enough as they are, and that procedure is not as bad as people say it is, and refuses to get in step with modern movements, the courts will simply disappear, and a large part of the business of the profession will disappear with them.